

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of the TOWN OF TRUCKEE for  
an Order authorizing three new Public  
At-Grade Crossings of Union Pacific Railroad  
Company's "Balloon Track", Roseville  
Subdivision, opposite MP 206.32, opposite  
MP 206.35 and opposite MP 206.50

Application 17-05-021

**DECISION AUTHORIZING THE TOWN OF TRUCKEE TO CONSTRUCT  
THREE AT-GRADE CROSSINGS ACROSS THE UNION PACIFIC RAILROAD  
COMPANY'S TRACK****Summary**

This decision grants the application of the Town of Truckee (Truckee) for authorization to construct three at-grade crossings across the Union Pacific Railroad Company's "balloon" track in Truckee. The crossing to be constructed at mile post 206.32 will be for the proposed Donner Pass road extension. The planned crossings at mile posts 206.35 and 206.50 are for the proposed Church Street extension.

The new crossings will allow removal of four existing private at-grade crossings of the balloon track and maintenance spurs in the area, allow relocation of maintenance track spurs to outside the development area to improve railroad maintenance operations, and may reduce use of the balloon track.

This proceeding is closed.

**1. Background**

On May 19, 2017, the Town of Truckee (Truckee or applicant) filed an Application for approval of three new at-grade crossings across the Union Pacific Railroad Company's "balloon" track.<sup>1</sup> The new proposed crossings will all be two-lane asphalt roads, with 10-foot wide lanes, five-foot wide shoulders, curb and gutter, and concrete sidewalks on both sides.<sup>2</sup> The proposed crossings would be opposite mile posts 206.32, 206.35, and 206.50 in Truckee. The crossing at mile post 206.32 is for the proposed Donner Pass road extension. The two crossings at mile posts 206.35 and 206.50, respectively, are for the proposed Church Street extension. Truckee states that the both extensions are essential transportation improvements connecting downtown Truckee to Glenshire Drive which is the most frequently used access point to the Glenshire/Devonshire Subdivision of 1,500 homes.

Truckee also states that the new crossings will allow for the removal of four existing private at-grade crossings of the balloon track and maintenance spurs in the area, allow relocation of maintenance track spurs to outside the development area to improve railroad maintenance operations, and may reduce use of the balloon track.

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<sup>1</sup> A balloon track, also known as a balloon loop, and sometimes used interchangeably with the terms turning loop, or reversing loop allows a rail vehicle or train to reverse direction without switching or stopping. The term is used to describe a loop that sits to the side of a main track, as opposed to a loop at the end of a line, whose principal function is to turn a train without a reverse move. It is not clear if the derivation of the name comes from the fact that the track "balloons" to the side of the main track, or if it because when seen from above it looks like a balloon on a string. See, Exhibit B of the Application.

<sup>2</sup> See, Exhibits E, F and G of the Application for plan and profiles of each crossing in relation to the proposed public roadway infrastructure. Detailed plan views of each crossing are shown on Application Exhibits H, I and J.

**2. Procedural Issues**

The Town of Truckee filed the instant application on May 19, 2017. In Resolution ALJ 176-3399, issued June 15, 2017, this proceeding was preliminarily categorized as ratesetting, and it was preliminary determined that evidentiary hearings would be necessary. The application was noticed on the Commission's Daily Calendar on June 1, 2017, and assigned to Administrative Law Judge (ALJ) Robert Haga on June 16, 2017.

A prehearing conference (PHC) was set by a ruling dated August 18, 2017. On July 20, 2017, the Safety and Enforcement Division (SED) of the California Public Utilities Commission (Commission) submitted a motion to accept a late-filed response. SED did not oppose the application but sought to include SED's safety review of the current crossings and to provide important information on the record to ensure a thorough review of the Town's requested grade-crossings.

On September 29, 2017, the PHC was held to determine parties and to discuss the scope, schedule, and other procedural matters. At the PHC, the assigned Administrative Law Judge (ALJ) granted SED's motion for party status. As SED did not protest the application, the assigned ALJ limited SED participation to its stated intention of providing a safety review of the current crossings and information on SED's past site visit, and the type of location and warning devices. The Union Pacific Railroad Company (Union Pacific) made an appearance at the PHC and moved for party status. The assigned ALJ granted Union Pacific's request for party status and limited its participation to its stated intent for participating, to argue for the Commission giving direction to Truckee that it cannot proceed with construction of the crossings until a construction and maintenance agreement is in place with the railroad.

A Scoping Memo was issued on March 20, 2018. Since no party challenged any of the facts set forth in the application and any issues are of a legal and policy nature, the Scoping Memo determined that no evidentiary hearing was necessary. The Scoping Memo set a schedule for parties to file motions on April 2, 2018, to accept testimony and Supporting Documents pursuant to Rule 13.8, and to brief any remaining legal and policy issues. Closing briefs were to be filed on April 16, 2018, with reply briefs due on April 30, 2018. The Town of Truckee submitted a motion on April 2, 2018 to accept the prepared testimony of Dan Wilkins and related exhibits A, A-1, B, C, D, E, F, G, H, I, J, K, L, M, N1, N2, O1, O2, P, Q, R, and S. The Town of Truckee submitted its opening brief on the case on April 16, 2018.

## **2.1. Jurisdiction**

Pursuant to Section 1201 of the California Public Utilities Code (Pub. Util. Code),<sup>3</sup> the Commission must grant permission before an at-grade crossing can be constructed across the track of a railroad corporation. Section 1202 gives the Commission exclusive authority to determine the point of crossing, terms of installation, and terms of operation. As part of this authority, the Commission is tasked with evaluating proposed warning devices, technology and other safety measures, with the consent of the local jurisdiction.<sup>4</sup>

The basis of the Commission's jurisdiction is not limited to Sections 1201 and 1202. The Commission is responsible for a number of different rail safety laws that, when read together, give the Commission jurisdiction over railroad

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<sup>3</sup> All subsequent Section references are to the California Pub. Util. Code unless otherwise indicated.

<sup>4</sup> Pub. Util. Code § 1202(d).

crossings in California. For example, Section 229 defines railroad to include any “commercial, interurban, and other railway, other than a street railroad,” and under Section 99152, “Any public transit guideway planned, acquired, or constructed, on or after January 1, 1979, is subject to regulations of the Public Utilities Commission relating to safety appliances and procedures.”

Rule 3.7(c) provides additional details. As summarized in Decision 14-08-045:

Rule 3.7(c) requires applications to construct a railroad crossing be made by the municipal, county, state or other governmental authority which proposes construction and, if the proposed crossing is at-grade, the applicant must demonstrate that: 1) There is a public need to be served by the crossing; 2) A grade separation of the crossing is not practicable; and 3) There are warning signs, signals, and other devices at the crossing. All three elements of Rule 3.7(c) must be satisfied in order for the application to be approved.

### **3. Discussion and Analysis**

Based upon our review as discussed below, we conclude that the Application has merit and should be approved. The proposed three new at-grade crossings across the Union Pacific Railroad Company’s “Balloon” Track crossing comply with the safety and engineering requirements of General Order 26-D.

Truckee has provided convincing evidence of how the public interest will be served by having the three new at-grade crossings across the Union Pacific Railroad Company’s “balloon” track. These public interest benefits, as summarized in Truckee’s Application, are as follows:

- 1. Essential Transportation Improvement.** The two Church Street crossings are required to construct the Church Street Extension roadway, an essential transportation improvement connecting Downtown Truckee from the west to Glenshire Drive to the east. Glenshire Drive is the more frequently used of two access points

to the Glenshire/Devonshire Subdivision located in eastern Truckee.

2. **Necessary Vehicle/Pedestrian/Bicycle Link in Railyard Master Plan Area.** The crossings provide vehicle, pedestrian, and bicycle links across the Railyard Master Plan Area, which will facilitate opportunities for more compact infill development patterns in Downtown Truckee. This will encourage less reliance on the automobile, greater bicycle and pedestrian activity, and an increase in the use of public transit.
3. **Controlled Pedestrian and Bicycle Crossings.** The crossings will provide convenient and controlled crossing of the balloon track for pedestrians and bicyclists in accordance with the Americans with Disabilities Act (ADA) and applicable federal and state regulations.
4. **Removal of Existing Private At Grade Crossings.** The new crossings will allow the removal of four existing private at-grade railroad crossings of the balloon track and maintenance track spurs in the project vicinity.
5. **Consolidation of Railroad Maintenance Operations.** The new crossings will allow for the relocation of maintenance track spurs to outside the development area to consolidate and improve railroad maintenance operations and may reduce use of the balloon track.

Safety is of paramount importance to the Commission. Ensuring safe rail crossings is in the public interest. But safety and public interest are not synonymous. Evaluating a particular facility for safety is different from evaluating what is in the public interest as a whole. The safest course would be to allow for no rail crossing, however, that would not be practicable nor in the public interest. When a crossing must occur, usually the safest type of crossing is a separated grade crossing. However, the public interest requires a more nuanced review that considers the public interest as a whole. This includes

safety impacts of a separated grade crossing and the use of the existing crossings, as discussed below.

### **3.1. Consideration of Grade Separation Options**

The Commission's analysis of railroad grade-crossing proposals always begins with the presumption that grade separation is appropriate. Truckee bears the burden of overcoming this presumption with convincing evidence that the proposed crossings will be safely operated as at-grade crossings. Truckee argues that special circumstances exist to justify an exception in this case from the Commission's presumption that grade separation is appropriate, namely:

- The proposed crossings are required to construct the Church Street Extension, an essential transportation improvement, and to connect land uses and parking within the Railyard Master Plan area.
- Four Union Pacific privately utilized at-grade crossings will be removed from the balloon track and maintenance spur as part of the project to construct the three proposed, public at-grade crossing.
- The potential for an accident is small and the risk of a serious or fatal accident at any of the new crossings is very small due to the low frequency at which the track is used, the low speed of trains that do use the track, and the use of automatic warning devices at the proposed crossings.
- Construction of grade separation crossings would make the Railyard development infeasible.
- The risk associated with the new crossings is considered minor.
- The Railyard project provides a significant economic benefit to the community and a large portion of the development is infeasible without balloon track crossings.
- An overpass would adversely impact the historic character of the Downtown area.

We concur with Truckee's assessment that grade separations are not practicable in this instance, as discussed in detail below.

### **3.1.1. Infeasibility of Wye Turnaround Option**

Truckee investigated the feasibility of a wye turnaround (in place of a balloon track) and both under- and over-crossing alternatives, and determined them to be infeasible.<sup>5</sup> Union Pacific staff expressed concerns about the disadvantages of a wye track versus a balloon track, noting that:

- Wye tracks require backing moves that potentially compromise safety and balloon tracks do not.
- Wye tracks require stopping and throwing switches whereas a balloon track can be operated without stopping.
- Balloon tracks can turn longer maintenance equipment.
- It will take longer to turn snow removal equipment on wye track because of the required switching moves.

In view of the Union Pacific's opposition to a wye track solution and the challenges and costs associated with fitting a wye track within the existing site, we concur that the wye track option is infeasible.

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<sup>5</sup> A wye is a triangular joining arrangement of three rail lines with a railroad switch at each corner connecting to each incoming line. A wye turnaround provides the railway equivalent of a three-point turn to reverse the locomotive or railway vehicle direction so that it faces the direction from which it came. Because trains traveled with only one locomotive in the early railroad days, a wye was necessary for trains to "turn" the locomotive to face the opposite direction for a return journey. It is not clear if the derivation of the name comes from the fact that the arrangement resembles the letter Y or if it were first used near the river or village of Wye in Great Britain.

**3.1.2. Infeasibility of Overpass and Underpass Options**

Conceptual drawings for both overpass and underpass alternatives were developed and included in the Application.<sup>6</sup> Such grade separations were found infeasible because:

- To provide adequate separation, the grade differential between Donner Pass Road Extension and Church Street would prohibit north-south side streets from connecting to east-west roadways. Limiting access to this essential transportation improvement does not meet the goals of the connection.
- Grade separations would create significant out-of-direction travel for vehicles, bicyclists, and pedestrians. Convenient connections between land uses and parking would no longer be provided.
- Grade separations would create an encumbrance between the existing Downtown area, proposed development inside the balloon, and development east of the balloon track. This is inconsistent with the goals of the Truckee General Plan. The Railyard project's feasibility is dependent upon connectivity with the existing Downtown. Grade separations would hinder that connectivity.
- The long roadway approaches required to get over or under the tracks take up too much land inside (and outside) the balloon track to make the project economically viable.
- The cost of two or even three grade separations (estimated between \$20 and \$40 million) make the development economically infeasible.

**3.1.3. Risk of Casualty or Fatality at Proposed Crossings is Negligible**

Truckee performed risk calculations using the methodology presented in US DOT's Grade Crossing Handbook (updated with current equations and

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<sup>6</sup> See Exhibits N1 and N2 (over crossing) and O1 and O2 (under crossing).

constants).<sup>7</sup> Truckee presented spreadsheet calculations presented in Exhibit Q to show that there is very little risk associated with adding the three proposed crossings as long as they are equipped with flashing light signals with gates.

The three proposed crossings of are crossings of the railroad's balloon track which is used exclusively to turn snow removal equipment and other maintenance equipment. The balloon track is not used in revenue service or for switching of railcars. Almost all track usage occurs during winter storms when the railroad runs its "ice breaker locomotives" and "flanger cars" in a loop between the balloon track at Truckee and another balloon approximately 40 miles west of Truckee. During full operation, these snow removal trains may make a trip around the balloon track approximately every 4 hours. In summer months, the track may be used occasionally to turn maintenance machines or other special equipment.

Curvature in the balloon track limits train speed to 10 mph. Queuing on the crossings is not expected to occur. At this low speed and with the types of trains operating on the track, however, trains should be able to stop before entering the crossing if vehicles are stalled or queued on a crossing.

Statistically, it is not probable there will be a casualty accident on the new crossings during the life of the project. The mean time between casualty accidents is estimated to be 258 years. The chance of fatal accident on one of the new crossings during the life of the project is insignificant. The mean time between fatal accidents is estimated to be 4,225 years.

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<sup>7</sup> The spreadsheet developed for the analysis uses the same equations and produces the same results as the Federal Railroad Administration's Web Based Accident Prediction System when applied to existing crossings.

Given these considerations, we find that the safety risk associated with the crossings is very low.

#### **3.1.4. Americans with Disabilities Act Compliance**

Truckee affirms that the sidewalks at all three crossings will be compliant with the ADA.

#### **3.1.5. Construction and Maintenance Agreement**

Truckee asserts that the Truckee Development Associates will construct the crossings, but Truckee and Union Pacific will enter into a separate Construction and Maintenance Agreement for each crossing prior to the crossings becoming public.

### **4. California Environmental Quality Act (CEQA)**

Under CEQA, the Commission is a responsible agency for this project (CEQA Guideline 15281). In this regard, and as referenced in the Scoping Memo, the Commission has reviewed Truckee's Final Environmental Impact Report (EIR) for the Railyard Master Plan and the EIR addendum that includes an analysis of the new crossings and makes the necessary findings (CEQA Guideline 15091).

Truckee prepared a Draft EIR that analyzed the potential environmental impacts of the Railyard Master Plan and a Response to Comments document that together formed the Final EIR which was certified by Truckee Town Council in 2009 via Resolution 2009-32. This action certified the Final EIR for the Railyard Master Plan, adopted a Mitigation and Monitoring Plan, and adopted findings and a Statement of Overriding Considerations in accordance with the CEQA statute and guidelines. Six significant and unavoidable impacts were identified for which the Statement of Overriding Considerations was proposed and passed: three Transportation, Circulation and Parking impacts (Level of Service impacts),

one Air Quality impact (regional emissions), one Noise and Vibration impact (railroad noise), and one Cultural and Paleontological Resources impact (removal of the Union Pacific Warehouse building).

The Railyard Master Plan was amended to reflect the balloon track being maintained in its existing location, including the three proposed new crossings of the balloon track. The Truckee Town Council/Planning Commission approved a CEQA memo/EIR addendum that included an analysis of the new crossings and finding that: “The proposed amendments to the 2009 Master Plan would not trigger any new significant environmental effects or substantial increase in the severity of previously identified significant effects.”<sup>8</sup>

## **5. Categorization and Need for Hearing**

In Resolution ALJ 176-3399, issued on June 15, 2017, the Commission preliminarily determined that this proceeding should be categorized as ratesetting and that hearings were required. The Scoping Memo issued on March 20, 2018, confirmed the ratesetting categorization, but concluded there were no issues of disputed facts requiring evidentiary hearings. Accordingly, we formally change the preliminary determination to affirm that no hearings are required in this matter.

## **6. Comments on Proposed Decision**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2), the otherwise applicable 30 day period for public review and comment is waived.

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<sup>8</sup> Details of the analysis of the new crossings in the EIR addendum are contained in Exhibit R of the Application.

**7. Assignment of Proceeding**

Liane M. Randolph is the assigned Commissioner and Robert Haga is the assigned ALJ. Pursuant to Public Utilities Code Section 1701.3(b) and Rule 13.2(b), Robert Haga is designated as the Presiding Officer.

**Findings of Fact**

1. On May 19, 2017, the Town of Truckee filed the instant application for an order authorizing the construction of three new at-grade crossings across the Union Pacific Railroad Company's "Balloon" Track in Truckee.

2. Notice of the application appeared on the Commission's Daily Calendar on June 1, 2017.

3. The proposed three new at-grade crossings across the Union Pacific Railroad Company's "balloon" track crossing comply with the safety and engineering requirements of Commission General Order 26-D.

4. The public interest will be served by having the three new at-grade crossings across the Union Pacific Railroad Company's "balloon" track because: (a) two of the crossings enable construction of an essential transportation improvement; (b) they provide necessary Vehicle/Pedestrian/Bicycle Link in Railyard Master Plan Area; (c) they are controlled Pedestrian and Bicycle Crossings; (d) they allow removal of Existing Private At Grade Crossings; and (e) they consolidate and improve railroad maintenance operations.

5. A Final EIR for the Railyard Master Plan was certified by Truckee Town Council in 2009 via Resolution 2009-32, and which adopted a Mitigation and Monitoring Plan, findings and a Statement of Overriding Considerations in accordance with the CEQA statute and guidelines.

6. Six significant and unavoidable impacts were identified in the Final EIR for which the Statement of Overriding Considerations was proposed and passed:

three Transportation, Circulation and Parking impacts (Level of Service impacts), one Air Quality impact (regional emissions), one Noise and Vibration impact (railroad noise), and one Cultural and Paleontological Resources impact (removal of the Union Pacific Warehouse building).

7. The Truckee Town Council/Planning Commission also approved a CEQA memo/EIR addendum that included an analysis of the new crossings and finding that: “The proposed amendments to the 2009 Master Plan would not trigger any new significant environmental effects or substantial increase in the severity of previously identified significant effects.”

### **Conclusions of Law**

1. As a matter of policy, the Commission disfavors new at-grade crossings and begins with the presumption that grade separation is appropriate.

2. The unique facts of the proposed crossings presented by Truckee in the instant application overcome the presumption against an at-grade crossing.

3. It is impracticable to construct grade-separated crossings as alternatives to the proposed three at-grade crossings proposed by Truckee.

4. Truckee has convincingly shown that it is in the public interest to construct three at-grade crossings across the Union Pacific Railroad Company’s “balloon” track, and to remove four existing private at-grade crossings of the balloon track and maintenance spurs in the area, to allow relocation of maintenance track spurs to outside the development area to improve railroad maintenance operations, as proposed.

5. Hearings are not necessary in this proceeding.

6. Application 17-05-021 should be approved.
7. This proceeding should be closed.

**O R D E R**

**IT IS ORDERED** that:

1. The application of the Town of Truckee+ is approved for authority to construct three new at-grade crossings across the Union Pacific Railroad Company's "balloon" track in Truckee to be located opposite mile posts 206.32, 206.35, and 206.50. The mile post 206.32 crossing is for the proposed Donner Pass road extension. The mile post 206.35 and 206.50 crossings are for the proposed Church Street extension.
2. Installation of Standard Number 9 flashing light signals with gates and Standard Number 8 double-sided flashing light signals shall be required at each of the three railroad at-grade crossings approved in this decision.
3. The Town of Truckee shall ensure that Emergency Notification System signs are installed at the crossings to comply with Section 234.309 of the Code of Federal Regulations.
4. The railroad at-grade crossings approved in this decision shall be identified as California Public Utilities Commission Crossing Numbers 001A-206.32-C, 001A-206.35-C, and 001A-206.50-C.
5. The railroad at-grade crossings approved in this decision shall have the crossing treatments and configuration as set forth in Attachment A to this decision.

6. The Town of Truckee shall comply with all applicable rules, including California Public Utilities Commission General Orders and the United States Department of Transportation's Americans with Disabilities Act Standards for Transportation Facilities.

7. The Town of Truckee shall notify the California Public Utilities Commission's Safety and Enforcement Division, Rail Crossings and Engineering Branch, at least five (5) business days prior to opening the grade-separated roadway structure. Notification must be made to [rceb@cpuc.ca.gov](mailto:rceb@cpuc.ca.gov).

8. Within 30 days after completion of the work under this order, the Town of Truckee shall notify the California Public Utilities Commission's Safety and Enforcement Division – Rail Crossings and Engineering Branch in writing, by submitting a completed California Public Utilities Commission Standard Form G (Report of Changes at Highway Grade Crossings and Separations), of the completion of the authorized work. Form G requirements and forms can be obtained at the California Public Utilities Commission web site Form G page at <http://www.cpuc.ca.gov/General.aspx?id=2878>. This report may be submitted electronically to [rceb@cpuc.ca.gov](mailto:rceb@cpuc.ca.gov).

9. Within 30 days after completion of the work under this order, The Town of Truckee shall notify the Federal Railroad Administration of the existence of the crossing by submitting a U.S. DOT CROSSING INVENTORY FORM, form FRA F6180.71 (inventory form). Concurrently, the Town of Truckee shall provide a copy of the inventory form to the California Public Utilities Commission's Safety and Enforcement Division, Rail Crossings and Engineering Branch. This copy of the form may be submitted electronically to [rceb@cpuc.ca.gov](mailto:rceb@cpuc.ca.gov).

10. The authorizations granted in this decision shall expire if not exercised within four years, unless time is extended or if the above conditions are not

satisfied. The California Public Utilities Commission may revoke or modify this authorization if public convenience, necessity, or safety so requires.

11. The application is granted as set forth in the ordering paragraphs of this decision.

12. Application 17-05-021 is closed.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.